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Guest column: The issues behind Kinston's electric rates

Will Barker
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Electric rates have been a long-standing concern for City of Kinston utility customers. While everyone knows our rates are higher than Progress Energy customers (approximately 30 percent), few residents understand the issues behind our high electric rates. Since joining the Kinston City Council in 2007, I've had the opportunity to learn more about the fundamental issues impacting our electric rates.

While our current focus is trying to achieve rate parity with Progress Energy — or at least a significant rate reduction for City of Kinston electrical customers — there is a need for discussing why we are in our current position.

The city used to purchase its power from CP&L, the predecessor to Progress Energy. Currently, the city purchases its power from the N.C. Eastern Municipal Power Agency (NCEMPA).

The City of Kinston, along with 31 other municipalities, is a member of NCEMPA, which was formed as a result of power supply concerns in the 1970s. NCEMPA shares ownership of five power generation sites with Progress Energy. The two most notable sites are the Shearon Harris and Brunswick nuclear facilities.

The City of Kinston has an 8.7 percent ownership of NCEMPA and is required through a power purchasing agreement to purchase its power from NCEMPA. Because of this arrangement, it is important to note, the City of Kinston does not own the debt — NCEMPA does. Furthermore, the City of Kinston is bound by the power purchasing agreement to buy its electricity from NCEMPA. There are options for a member municipality to leave NCEMPA and purchase its supplemental power on the open wholesale market but there are many other things to consider that have a significant effect on the total cost.

The debt that has been attributed to the high cost of municipal electric rates is largely a result of construction costs incurred in building the Shearon Harris nuclear facility. The current debt owed by NCEMPA is $2.255 billion and approximately 70 percent of that debt is associated to Shearon Harris. As a result, approximately 30 percent of each customer's electric bill goes directly toward paying down our ownership share of the NCEMPA debt.

An item that is often overlooked in the discussions about the NCEMPA debt is that it is from the issuance of revenue bonds and not simply borrowings from a financial institution. Because NCEMPA is a governmental agency formed under N.C. General Statutes, the processes of issuing debt and early pay-off of debt are much more different than that of a private entity. As of December 31, 2010 there were 47 different bond issuances outstanding bearing interest rates from 3 percent up to 7 percent.

In order for the municipalities to achieve rate parity with Progress Energy, the debt must be removed from NCEMPA. There doesn't appear to be a silver bullet that allows us to easily shed that debt before the scheduled payoff in 2026. Many people hoped the pending merger between Duke and Progress Energy would provide an opportunity to eliminate or reduce our debt, and we carefully explored that possibility.

Kinston and five other municipalities even hired an independent attorney and a consultant to advise us beyond the advice we were getting from NCEMPA and ElectriCities staff. We were informed by the independent attorney and consultant that neither debt relief nor rate parity, as a result of merger issues, was possible. All parties stated that relief resulting from market power issues, joint dispatching of our generation facilities and protection from merger related issues should be sought.

One of the primary limiting factors for debt relief relates to a lawsuit and subsequent settlement between

NCEMPA and CP&L. Based on this settlement, NCEMPA does not have the opportunity to re-open the issues surrounding the Shearon Harris nuclear facility cost of construction and subsequently, the debt.

We have also researched whether NCEMPA should sell its generation assets or have Progress Energy be forced to take the existing debt in exchange for the generation assets. Progress Energy has clearly stated it is not interested in purchasing the generation assets at this time, and currently no one can force them to assume our debt and assets as a condition of its merger with Duke Energy.

Also, because each municipality owns its own electric distribution assets, no municipality can be forced to divest of its own distribution system. Simply put, if there were a willing buyer of the electric generation assets, the 32 NCEMPA member municipalities would have to agree to sell and any subsequent decision of what to do with each municipality's electric distribution system would be subject to vote by the elected officials of each municipality.

But here is what we have done:

n ElectriCities has negotiated an agreement with Duke and Progress Energy that protects Kinston customers from merger-related costs while allowing us to benefit from savings achieved as a result of the merger. That should provide some meaningful, but not extraordinary, savings.

n NCEMPA has repeatedly taken advantage of opportunities to restructure our debt and lower our interest rate. Last year, for example, NCEMPA completed a refinancing that will save $35 million over the next 12 years.

n NCEMPA continually looks for opportunities to renegotiate power supply agreements to achieve savings. For example, we recently signed a new long-term agreement with Progress Energy for supplemental power (the energy we need over and above the amount we own) that will provide long-term, competitively priced power for Kinston and other NCEMPA members.

n NCEMPA employs "load management" practices that save Kinston and other cities $40 million a year by minimizing the need to purchase power at peak prices.

n NCEMPA and Kinston work together to promote energy efficiency and educate customers about how to lower their energy usage. The Free Press recently profiled a local family who reduced its energy bill by more than $500 in four months since receiving a home energy audit and making recommended home repairs.

The N.C. General Assembly has appointed a special committee to look into ways to provide relief from high electric rates in cities like Kinston. When that committee began its work in October, it started by examining the history behind the creation of the power agency and what led to the challenges we face today. There will be another meeting on January 10, 2012 at the Legislative Office Building in Raleigh.

Many residents are worried that high electric rates will impact our ability to successfully recruit and retain businesses. Our experience has shown that while energy costs are an important factor for businesses, factors such as tax rates, quality of the labor force, and infrastructure needs rank just as high.

Recent economic development successes — including the expansion of Smithfield Foods, West Pharmaceuticals and Dapaco — demonstrate that Kinston has a lot to offer prospective employers.

Will Barker is a Kinston City Councilman and sits on the board of directors of NCEMPA. The opinions of the guest columnist are not necessarily those of The Free Press.

Breakout box:

The Free Press guest columnist feature appears every Wednesday in this space. Would you like to be considered as a guest columnist? Contact Managing Editor Bryan Hanks at (252) 559-1074 or at bhanks@freedomenc.com.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KINSTON FORMALLY REQUESTING ACTION BY ELECTRICITIES RELATIVE TO THE MERGER BETWEEN DUKE POWER AND PROGRESS ENERGY

WHEREAS, the City of Kinston is a member of ElectriCities and the North Carolina Eastern Municipal Power Agency (NCEMPA) along with thirty-one other cities in the eastern part of the State; and

WHEREAS, the City of Kinston with fifty other municipalities joined to form power agencies that were approved by the State legislators and the voters of the State of North Carolina to help finance the completion of the generating facilities in our State and aid the investor-owned utilities with the needed funding to complete the building of reliable generating capacity in the 1980s; and

WHEREAS, during the construction period the nuclear industry suffered a great disaster at Three Mile Island which resulted in new regulations and increased the cost of construction that resulted in over $3,000,000,000 in debt; and

WHEREAS, the cities of the power agencies have carried this debt since the 1980s and the power cost to its customers is higher than the investor-owned utilities in the State of North Carolina; and

WHEREAS, the citizens of Kinston seek and demand relief from the higher cost of electricity which is a result of financing construction cost for the investor-owned utilities; and

WHEREAS, the cities believe they have been good partners with the investor-owned utilities since the 1980s; and

WHEREAS, the debt incurred to finance the generating facilities for the investor-owned utilities has resulted in at least thirty-five percent higher residential electric rates for our customers than Progress Energy rates; and

WHEREAS, the merger of Duke Power and Progress Energy will result in the largest utility corporation in the country and both companies will greatly benefit financially; and

WHEREAS, the City of Kinston is not opposed to the merger of the Duke Power and Progress Energy as long as the interests of Kinston and its citizens and businesses are protected.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Kinston strongly urges the Chief Executive Officer of ElectriCities, the Officers and Board of Directors of ElectriCities and both municipal power agencies to negotiate with Duke Power to obtain the most favorable outcome for the citizens and residents of the City of Kinston with a goal to achieve retail rate parity with Progress Energy for the electric customers of the City of Kinston.

Adopted this 7th day of March, 2011.

William W. Barker, Mayor Pro Tem

Alice S. Tingle, Councilmember

Robert Merritt, Jr., Councilmember

Joseph M. Tyson, Councilmember

Robert A. Swinson, IV., Councilmember

DISSOLUTION OF
AND
WITHDRAW FROM POWER AGENCY

NOTE: The following is a very general overview of complicated issues. It is not intended to be an exhaustive discussion and does not address many of the technical aspects and finer details of the subjects discussed. Those interested in pursuing the subjects in greater detail should contact ElectriCities.

I. Dissolution of Power Agency

If all Participant cities want to dissolve the Power Agency, a determination must be made that dissolution is in the best interest of the Power Agency, meaning in the best interests of all 32 of the Participants, not just one or more. If that determination is made, the generation assets have to be sold, the entire debt has to be retired and the Participants will remain liable for any difference between the funds necessary to retire the debt and the sale proceeds and other funds available, if any. Thereafter, the Participants must decide whether they want Power Agency to continue providing their wholesale power supply needs or if they want to become wholesale customers of Progress Energy. If the former, the Supplemental Power Supply Contract would remaining effect. If the latter, the entire Power Agency relationship would be dissolved and the Participants would be on their own for power supply arrangements.

II. Ways for Participants to withdraw from Power Agency

A. The following three options may be available to a Participant if it elects to sell or otherwise dispose of its electric distribution system:

1. A Participant can assign the Initial Project Power Sales Agreement ("Agreement") and all of its interests and obligations therein, including its Participant's Share of Project Output, to one or more other Participants, which must assume all of the selling Participant's obligations under the Agreement.

a. Selling Participant is relieved of its obligations
b. Power Agency's Consulting Engineer must opine that the assignee can reasonably utilize the transferred Share of Project Output
c. **CAVEAT: no such assignment can be made if it results in more than 25% of Project Output having been assigned under this provision (i.e., since Wilson, Rocky Mount and Greeneville have, respectively, in excess of 15%, 16% and 16% of Project Output, if any one of these Participants successfully assigns its Agreement, further assignments would be limited to Participants owning, in the aggregate, 10% or less of Project Output)**
d. The foregoing caveat is a risk-mitigating measure for the benefit of the bondholders in that it prevents the ownership of Project Output by a small number of Participants

2. A Participant may merge its electric system with the electric system of one or more other Participants, which surviving electric system must assume the Agreement and all obligations thereunder.

a. Merging Participant is relieved of its obligations

3. A Participant, itself, may merge with one or more units of local government, which surviving unit of local government must assume the Agreement and all obligations thereunder.

a. Merger must be approved by the Local Government Commission, which must determine that the survivor will have the ability to meet the obligations of the Participant following the merger
b. Merging Participant is relieved of its obligations

B. The following assignment option may be available to a Participant:

A Participant may assign its interest in the Agreement, with the consent of Power Agency, so long as the assignment does not adversely affect the federal tax exemption of the Power Agency's bonds. An assignment to a non-governmental entity, such as an investor owned utility, technically is permissible, but there are many Internal Revenue Code requirements that must be satisfied to avoid adverse tax consequences. Any proposed assignment must be analyzed on a case by case basis before Power Agency can give its consent. Nevertheless, even with such an assignment, whether to a governmental or non-governmental entity, the Participant is **not** relieved of its obligations under the Agreement and remains liable except to the extent such obligations are satisfied by the assignee.

In any of the foregoing options, the facts and circumstance particular to a proposal are critical in determining whether the option is available to the Participant. ElectriCities is happy to discuss these options with any Participant and work with any Participant in an effort to carry out the desires of that Participant.

March 2, 2010

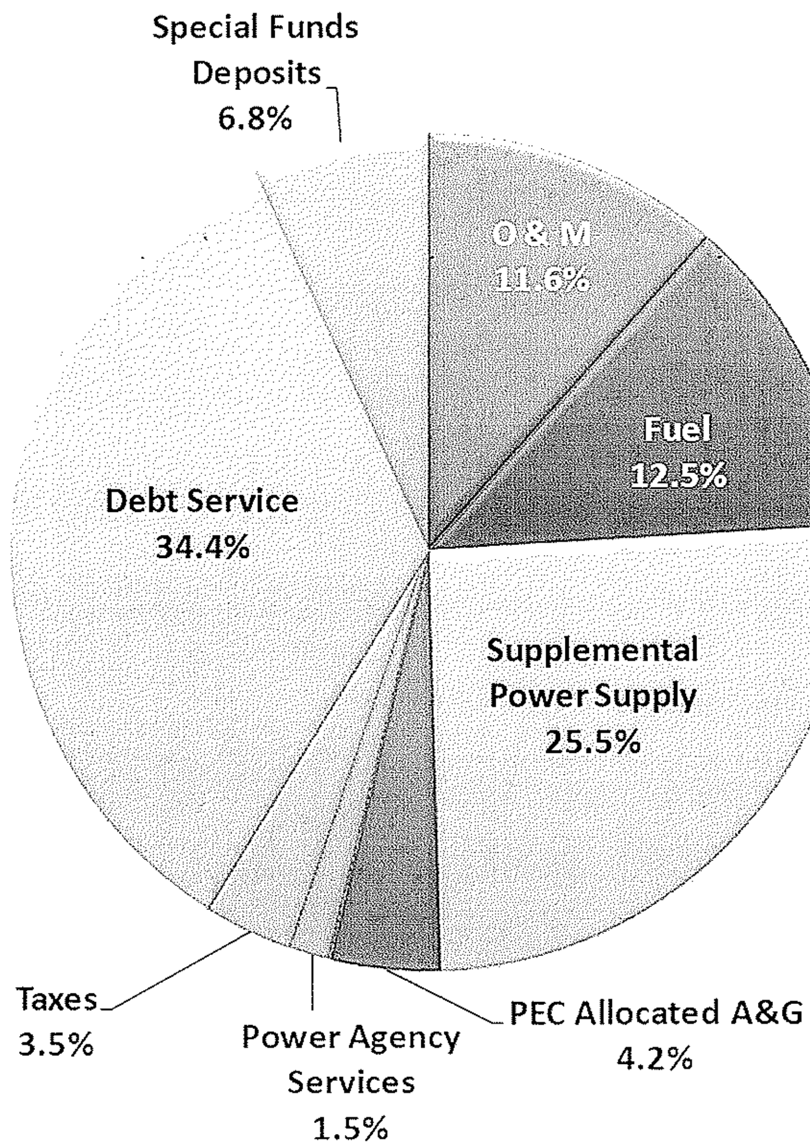
NCGA's Municipal Power Agency Relief Subcommittee

Member	Address	Phone
Sen. Andrew C. Brock	623 LOB	(919) 715-0690
Sen. Eric Mansfield	1119 LB	(919) 733-9349
Sen. Wesley Meredith	2106 LB	(919) 733-5776
Sen. Buck Newton**	410 LOB	(919) 715-3030
Sen. Bob Rucho	300-A LOB	(919) 733-5655
Rep. William Brawley	1313 LB	(919) 733-5800
Rep. Jeff Collins**	1006 LB	(919) 733-5802
Rep. Jimmy Dixon	1002 LB	(919) 715-3021
Rep. Bill Owens	611 LOB	(919) 733-0010
Rep. Paul Stam	2301 LB	(919) 733-2962

**Co-Chairs

There will be a meeting of the Joint Municipal Power Agency Relief Committee on Tuesday, January 10, 2012, from 1:30PM – 4:30pm in Room 544 of the Legislative Office Building.

2012 Total Expenses



(as of January 2012)

City/Town	Percentage Ownership	Gross Dollar Responsibility	City/Town	Percentage Ownership	Gross Dollar Responsibility
Apex	0.7056%	14,856,373	Laurinburg	2.2675%	47,742,099
Ayden	1.1340%	23,876,313	Louisburg	0.8577%	18,058,831
Belhaven	0.4090%	8,611,475	Lumberton	5.1568%	108,576,166
Benson	0.5773%	12,155,023	New Bern	6.3676%	134,069,500
Clayton	0.7448%	15,681,727	Pikeville	0.2046%	4,307,843
Edenton	1.5961%	33,605,806	Red Springs	0.5798%	12,207,660
Elizabeth City	4.2510%	89,504,592	Robersonville	0.5066%	10,666,438
Farmville	1.2901%	27,162,991	Rocky Mount	16.0260%	337,426,629
Fremont	0.3062%	6,447,026	Scotland Neck	0.5762%	12,131,862
GUC	16.1343%	339,706,880	Selma	0.8102%	17,058,720
Hamilton	0.0783%	1,648,603	Smithfield	2.0056%	42,227,808
Hertford	0.4124%	8,683,061	Southport	0.7139%	15,031,129
Hobgood	0.0913%	1,922,317	Tarboro	4.7427%	99,857,311
Hookerton	0.1550%	3,263,517	Wake Forest	0.7262%	15,290,105
Kinston	**8.6678%**	**182,500,096**	Washington	5.8920%	124,055,765
LaGrange	0.5014%	10,556,952	Wilson	15.5120%	326,604,384
Total Debt					**2,105,495,000**